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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO..
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10/078,607

02/19/2002

William Diaz-Lopez

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EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

06/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/078,607	DIAZ-LOPEZ, WILLIAM	
	Examiner	Art Unit	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on March 5, 2007 is acknowledged. The traversal is on the ground(s) that the elements of claim 9 follow the elements recited in claim 1. This is not found persuasive because the elements of claim 1 do not "follow" the elements of claim 9. Note that only claim 1 requires a control means which requires the examiner to search for the function of the control means and the structural equivalents thereto as set forth in the specification. Additionally, claim 9 requires monitoring for vibrations near the door which is not required by claim 1. Therefore, the examiner has made a *prima facie* case that restriction is proper. Not only are the Groups separately patentable as evidenced by their separate classification, the examiner has provided additional evidence of substantial burden as set forth above. Finally, the applicant's statement that the elements of claim 9 "follow" the elements of claim 1 is not a sufficient showing or evidence that the restriction is improper.

The requirement is still deemed proper and is therefore made FINAL.

Claims 9-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 5, 2007.

Claim Rejections - 35 USC § 112

Claims 5-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "low" on line 5 of claim 5 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification. Recitations such as "batter" on line 3 of claim 6 appear to be typographical errors. Recitations such as "small" on line 4 of claim 7 render the claims indefinite because they are relative terms whose meaning cannot be readily ascertained by one with ordinary skill in the art and are not defined by the specification. Recitations such as "caused by the door" on line 4 of claim 7 render the claims indefinite because it is unclear how the door without more can cause vibration. Is the applicant referring to the situation when the door engages the door frame as the door is being closed?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3634

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Diaz.

Diaz discloses a door lock control system, comprising: a door 30 mounted in a door frame (not numbered, but shown in figure 1); a door lock 24 (not shown in figure 5a, but see column 12, lines 30-31) associated with the door to lock and unlock the door; control means 110 to lock and unlock the door lock; and, a vibration sensor 171, 169 associated with the control means, the control means causing the door lock to be unlocked when a vibration above a certain level is sensed by the vibration sensor, wherein the door lock is a magnetic lock, wherein the vibration sensed by the vibration sensor is an earthquake or a bomb explosion, wherein the vibration sensor includes a permanent magnetic 171 connected to a pendulum 172, a magnetic contact 169 positioned near the permanent magnet, and a relay switch 167, wherein the control means to lock and unlock the door lock further comprises: a low voltage DC power source 160; a backup battery 165; a relay switch 167; and, the vibration sensor, wherein

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diaz as applied to claims 1-5 above, and further in view of Japanese Patent Publication No.

Art Unit: 3634

8-209996. Japanese Patent Publication No. 8-209996 discloses a control box 42 for controlling the operation of a lock 11 based on an earthquake.

It would have been obvious to one of ordinary skill in the art to provide Diaz with a remotely mounted control box, as taught by Japanese Patent Publication No. 8-209996, to more accurately control the operation of the lock when an earthquake occurs.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diaz as applied to claims 1-5 above, and further in view of Logan. Logan discloses a door lock control system wherein a delay mechanism 25 is utilized to prevent immediate opening of a door, vibration sensors 205a bypass the delay mechanism when an earthquake has been sensed (see column 6, lines 39-41).

It would have been obvious to one of ordinary skill in the art to provide Diaz with a delay system, as taught by Logan, to prevent criminals from easily exiting a building while allowing persons to exit in the case of an earthquake.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Perry is cited for disclosing a pendulum vibration sensor. Japanese Patent Publication 9-67970 is cited for disclosing an unlocking mechanism for unlocking a lock when an earthquake occurs. Tefka and Maus are cited for disclosing an emergency lock release mechanism.

Art Unit: 3634

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
May 24, 2007